

Nuclear Regulatory Commission

§ 52.171

facility, such as the service water intake structure and the ultimate heat sink, not within the scope of the manufactured reactor.

(c)(1) A holder of a manufacturing license may not transport or allow to be removed from the place of manufacture the manufactured reactor except to the site of a licensee with either a construction permit under part 50 of this chapter or a combined license under subpart C of this part. The construction permit or combined license must authorize the construction of a nuclear power facility using the manufactured reactor(s).

(2) A holder of a manufacturing license shall include, in any contract governing the transport of a manufactured reactor from the place of manufacture to any other location, a provision requiring that the person or entity transporting the manufactured reactor to comply with all NRC-approved shipping requirements in the manufacturing license.

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§ 52.171 Finality of manufacturing licenses; information requests.

(a)(1) Notwithstanding any provision in 10 CFR 50.109, during the term of a manufacturing license the Commission may not modify, rescind, or impose new requirements on the design of the nuclear power reactor being manufactured, or the requirements for the manufacture of the nuclear power reactor, unless the Commission determines that a modification is necessary to bring the design of the reactor or its manufacture into compliance with the Commission's requirements applicable and in effect at the time the manufacturing license was issued, or to provide reasonable assurance of adequate protection to public health and safety or common defense and security.

(2) Any modification to the design of a manufactured nuclear power reactor which is imposed by the Commission under paragraph (a)(1) of this section will be applied to all reactors manufactured under the license, including those that have already been transported and sited, except those reactors to which the modification has been rendered technically irrelevant by ac-

tion taken under paragraph (b) of this section.

(3) In making the findings required for issuance of a construction permit, operating license, combined license, in any hearing under § 52.103, or in any enforcement hearing other than one initiated by the Commission under paragraph (a)(1) of this section, for which a nuclear power reactor manufactured under this subpart is referenced or used, the Commission shall treat as resolved those matters resolved in the proceeding on the application for issuance or renewal of the manufacturing license, including the adequacy of design of the manufactured reactor, the costs and benefits of severe accident mitigation design alternatives, and the bases for not incorporating severe accident mitigation design alternatives into the design of the reactor to be manufactured.

(b)(1) The holder of a manufacturing license may not make changes to the design of the nuclear power reactor authorized to be manufactured without prior Commission approval. The request for a change to the design must be in the form of an application for a license amendment, and must meet the requirements of 10 CFR 50.90 and 50.92.

(2) An applicant or licensee who references or uses a nuclear power reactor manufactured under a manufacturing license under this subpart may request a departure from the design characteristics, site parameters, terms and conditions, or approved design of the manufactured reactor. The Commission may grant a request only if it determines that the departure will comply with the requirements of 10 CFR 52.7, and that the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the departure. The granting of a departure on request of an applicant is subject to litigation in the same manner as other issues in the construction permit or combined license hearing.

(c) Except for information requests seeking to verify compliance with the current licensing basis of either the manufacturing license or the manufactured reactor, information requests to the holder of a manufacturing license or an applicant or licensee using a

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manufactured reactor must be evaluated before issuance to ensure that the burden to be imposed on respondents is justified in view of the potential safety significance of the issue to be addressed in the requested information. Each evaluation performed by the NRC staff must be in accordance with 10 CFR 50.54(f) and must be approved by the Executive Director for Operations or his or her designee before issuance of the request.

§ 52.173 Duration of manufacturing license.

A manufacturing license issued under this subpart may be valid for not less than 5, nor more than 15 years from the date of issuance. A holder of a manufacturing license may not initiate the manufacture of a reactor less than 3 years before the expiration of the license even though a timely application for renewal has been docketed with the NRC. Upon expiration of the manufacturing license, the manufacture of any uncompleted reactors must cease unless a timely application for renewal has been docketed with the NRC.

§ 52.175 Transfer of manufacturing license.

A manufacturing license may be transferred in accordance with § 50.80 of this chapter.

§ 52.177 Application for renewal.

(a) Not less than 12 months, nor more than 5 years before the expiration of the manufacturing license, or any later renewal period, the holder of the manufacturing license may apply for a renewal of the license. An application for renewal must contain all information necessary to bring up to date the information and data contained in the previous application.

(b) The filing of an application for a renewed license must be in accordance with subpart A of 10 CFR part 2 and 10 CFR 52.3 and 50.30.

(c) A manufacturing license, either original or renewed, for which a timely application for renewal has been filed, remains in effect until the Commission has made a final determination on the renewal application, *provided, however*, that in accordance with § 52.173, the holder of a manufacturing license may

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not begin manufacture of a reactor less than 3 years before the expiration of the license.

(d) Any person whose interest may be affected by renewal of the permit may request a hearing on the application for renewal. The request for a hearing must comply with 10 CFR 2.309. If a hearing is granted, notice of the hearing will be published in accordance with 10 CFR 2.104.

(e) The Commission shall refer a copy of the application for renewal to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety and shall apply the criteria set forth in § 52.159.

§ 52.179 Criteria for renewal.

The Commission may grant the renewal if the Commission determines:

(a) The manufacturing license complies with the Atomic Energy Act and the Commission's regulations and orders applicable and in effect at the time the manufacturing license was originally issued; and

(b) Any new requirements the Commission may wish to impose are:

(1) Necessary for adequate protection to public health and safety or common defense and security;

(2) Necessary for compliance with the Commission's regulations and orders applicable and in effect at the time the manufacturing license was originally issued; or

(3) A substantial increase in overall protection of the public health and safety or the common defense and security to be derived from the new requirements, and the direct and indirect costs of implementation of those requirements are justified in view of this increased protection.

§ 52.181 Duration of renewal.

A renewed manufacturing license may be issued for a term of not less than 5, nor more than 15 years, plus any remaining years on the manufacturing license then in effect before renewal. The renewed license shall be subject to the requirements of §§ 52.171 and 52.175.

Subpart G [Reserved]